

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-27671-2018

Date of decision:-8.10.2018

Praveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Surinder Dagar, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Praveen – an accused in FIR No.264 dated 17.4.2018, under Sections 363, 366-A, 376 IPC and Section 4 of POCSO Act, registered at Police Station Sadar, Palwal.

Briefly stated, the facts of the case, as per the prosecution story are that the prosecutrix (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by the Hon'ble

Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as *the prosecutrix*) aged about 17 years daughter of Udai Pal son of Vikram Singh, resident of Allika left home on 16.4.2018 at about 8 O' clock without informing anybody. She could not be located despite efforts made by her family in that regard and then information was lodged with the police. Formal FIR was recorded. Investigation in the case started. The prosecutrix was recovered. Her statement under Section 164 Cr.P.C. was got recorded. She was got medico legally examined. The petitioner/accused was arrested in this case on 23.4.2018. He was also got medically examined. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Palwal vide order dated 27.6.2018, as such, he has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The prosecutrix is a minor with date of birth being 3.10.2000 as per her birth certificate. The accused had taken a minor girl from the custody of her parents without their consent. The girl in question had been recovered from the possession of accused. On completion of investigation, the challan has been filed against him, formal charge has been framed and case is fixed for prosecution evidence.

Although in her statement under Section 164 Cr.P.C., the prosecutrix had stated that she had gone with the accused of her own will

but then consent of a minor is no consent in the eyes of law. In her supplementary statement got recorded during the investigation, she had stated that accused had taken her to Kanpur, thereafter to Mirzapur and then Banaras. Furthermore, earlier accused had taken obscene photographs of the prosecutrix also and made her video film having objectionable scenes. Further there are allegations of kidnapping of prosecutrix against the petitioner. As per the history of the incident as narrated by victim mentioned in the MLR of the prosecutrix, the accused had performed forcible sexual intercourse with her. The trial is going on, which is likely to be concluded in near future. The culpability of the accused shall be determined during the trial. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merit in the petition, the same stands dismissed.

8.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No